

Docket No. 2013-1106

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**United States Court of Appeals**  
*for the*  
**Federal Circuit**

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CHIKEZIE OTTAH,

*Plaintiff-Appellant,*

-v.-

VERIFONE SYSTEMS, INC.

*Defendant-Appellee.*

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Appeal from the United States District Court  
for the Southern District of New York in case no. 11-CV-6187,  
Judge Richard M. Berman

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**BRIEF AND APPENDIX FOR DEFENDANT-APPELLEE**

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January 24, 2013

Form 9

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Chikezie Ottah v. VeriFone Systems, Inc.

No. 13-1106

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party) appellee certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:  
VeriFone Systems, Inc.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:  
N/A

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:  
None

4. ☐ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:  
Wilmer Cutler Pickering Hale and Dorr: Cosmin Maier

Dec. 24, 2012

Date



Signature of counsel

Owen W. Dukelow

Printed name of counsel

Please Note: All questions must be answered

cc: \_\_\_\_\_

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## **I. INTRODUCTION, JURISDICTIONAL STATEMENT, AND STATEMENT OF THE CASE**

Plaintiff-Appellant Chikezie Ottah (Ottah) alleged in the United States District Court for the Southern District of New York that VeriFone's mounts for electronic display screens in taxi cabs infringe US Pat. No. 7,152,840 ('840 patent). However, the sole claim of the '840 patent recites a book holder for removable attachment that does not bear any resemblance to VeriFone's mounts, which are riveted in place. The accused VeriFone mounts lack many limitations of the '840 patent's claim. Therefore, the District Court properly granted to VeriFone summary judgment of noninfringement.

The district court had jurisdiction over the actions under 28 U.S.C. §§ 1331 and 1338(a). This appeal is from the district court's:

- (1) Opinion and Order granting on October 10, 2012 VeriFone's motion for summary judgment of noninfringement (A1-7); and
- (2) Judgment on October 11, 2012 closing the case (A8).

Ottah filed a notice of appeal on November 28, 2012. This Court has jurisdiction of the appeal under 28 U.S.C. § 1295(a)(1).

Oral argument is not necessary in the present case because Ottah's appeal is frivolous. Fed. R. App. 34(2)(A). This appeal is frivolous as filed because Ottah does not even mention, much less make a cogent argument

about, any of the claim limitations that the District Court identified as absent in the accused product. *Compare* Ottah's Informal Brief *with* the District Court's Opinion and Order at A4-6. Ottah thus "grounds his appeal on arguments or issues that are beyond the reasonable contemplation of fair-minded people, and no basis for reversal in law or fact can be or is even arguably shown." *Abbs v. Principi*, 237 F.3d 1342, 1345 (Fed. Cir. 2001); *Refac Int'l, Ltd. v. Hitachi, Ltd.*, 921 F.2d 1247, 1256, (Fed. Cir. 1990) (sanctionable that appellant failed to explain how the trial court erred and failed to present cogent and clear arguments for reversal).

## **II. STATEMENT OF RELATED CASES**

There are no related cases, but in 12-1405, Chikezie Ottah v. 1st Mobile Technologies, Ottah appealed from summary judgment of noninfringement of the same patent as in the present case, U.S. Pat. No. 7,152,840. That case involved a defendant unrelated to VeriFone making devices unrelated to VeriFone's mounts. This Court dismissed that appeal on June 14, 2012 for Ottah's failure to file an appeal brief, and issued on November 21, 2012 a per curiam order denying Ottah's motion to reinstate that appeal.

### III. STATEMENT OF THE ISSUES

Whether the district court properly granted summary judgment that VeriFone's mounts do not infringe the '840 patent.

### IV. STATEMENT OF THE FACTS

The district court below analyzed the claims as applied to the accused VeriFone mounts and determined that:

VeriFone mounts do not contain (at least) several of the limitations in the '840 patent claim, including

“[a] book holder for removable attachment”;

“[a] plurality of clamps disposed on the front surface to engage and retain the book”;

“[a] clasp spaced from the book support platform wherein the book holder is removably attached”;

“[a] telescoping arrangement axially adjusting the spaced relation between the book support platform and the clasp”; and

“[a] pivotal connection on the book support platform pivotally adjusting the front surface with respect to the arm.”

(A4 [formatting of claim limitations added] *and see* the '840 patent at col. 6, lines 14-38 (A16)).

The district court also determined, with respect to the claim limitations that the book holder is “for removable attachment” and “removably attached,” that “VeriFone's mounts are anything but removable,” because “[t]hey are ‘riveted in place to the taxi's partition or seat’ to discourage tampering and stealing of the electronic displays.” *Id.*



The district court further ruled that VeriFone's mounts cannot infringe under the doctrine of equivalents because of Ottah's arguing to the USPTO that "the use of **adjustable resilient clip arms** ... for clasping the book holder to the movable vehicle providing **quick removal and attachment without tools** ... is not obvious in light of the prior art." (A4-5 [emphasis added]). The district court recognized that Ottah made this argument to distinguish prior art and therefore prosecution history estoppel precludes Ottah's now arguing that the patent could cover VeriFone's riveted mounts. (A5-6).

## V. SUMMARY OF ARGUMENT

The Plaintiff-Appellant Ottah, in his brief to this Court has failed to raise any genuine issue of material fact. Ottah did not address, or even mention, any of the district court's reasons for granting summary judgment of noninfringement. Ottah has not raised any factual or legal basis for this Court to consider, and thus the summary judgment of noninfringement should be affirmed.

## VI. ARGUMENT

The patent claim is "the sole measure of the patent grant." *Bandag, Inc. v. Al Bolser's Tire Stores, Inc.*, 750 F.2d 903, 922 (Fed. Cir. 1984).

“It is the *claims* that measure the invention.” *SRI Int’l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (*en banc*) [emphasis in the original]. The district court properly construed claim 1 of the ‘840 patent in accordance with the accepted meaning of commonly understood words. (A2-3, citing *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (*en banc*)).

The appeal of summary judgment for noninfringement is frivolous and should be rejected because it fails to address any of the claim limitations. (See Ottah Informal Br. at ¶¶ 2-6). The district court compared “the properly construed claims to the device accused of infringing.” *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995) (*en banc*), *aff’d*, 570 U.S. 370 (1996). (A2-6.) The district court determined that none of the following limitations are literally present:

- a book holder for removable attachment;
- a plurality of clamps disposed on the front surface to engage and retain the book;
- a clasp spaced from the book support platform wherein the book holder is removably attached;
- a telescoping arrangement axially adjusting the spaced relation between the book support platform and the clasp; and
- a pivotal connection on the book support platform pivotally adjusting the front surface with respect to the arm.

(A4).

The district court also properly concluded that the limitations on the book holder to be “for removable attachment” and “removably attached,” are not infringed under the doctrine of equivalent due to prosecution history estoppel. (A4-6 and *supra* at pp. 4-5.) A plaintiff may provide evidence that a limitation is found in an accused device under the doctrine of equivalents, but Ottah has provided no such evidence. *Dawn Equip. Co. v. Kentucky Farms Inc.*, 140 F.3d 1009, 1015-16 (Fed. Cir. 1998). Ottah does not, and could not, dispute the district court’s finding that VeriFone’s mounts are not removably attached, but rather are riveted in place. (A4).

Ottah does not challenge any of the legal or factual bases for the district court’s conclusions. Ottah’s brief refers to a “claimed written section,” “claimed drawing section,” “drawing claimed section,” and “claimed drawing” but provides no explanation for what this means or why it should be a basis for reversing the grant of summary judgment of noninfringement. (Ottah Informal Br. at ¶¶ 2-6). In any case, “the claims of the patent, not the specifications [i.e., the written description and the drawings], measure the invention.” *SRI Int’l v. Matsushita Elec. Corp.*, 775 F.2d at 1122 (quoting *Smith v. Snow*, 294 U.S. 1, 11, 24 U.S.P.Q. 26, 30, 79 L. Ed. 721, 55 S. Ct. 279 (1935)). There is no basis for reversal in view of any “claimed written section,” or “claimed drawing” and the summary

judgment should be affirmed. Summary judgment is proper because there are no genuine issues of material fact, and VeriFone is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986); *Nike Inc. v. Wolverine World Wide, Inc.*, 43 F.3d 644, 646 (Fed. Cir. 1994).

VeriFone is entitled to summary judgment of noninfringement because it has demonstrated “an absence of evidence to support [plaintiff’s] case,” and, although infringement raises a question of fact, VeriFone “need not produce evidence showing the absence of a genuine issue of material fact” because plaintiff has the burden of proving infringement. *Exigent Tech, Inc. v. Atrana Solutions, Inc.*, 442 F.3d 1301, 1307-08 (Fed. Cir. 2006); *Teleflex, Inc. v. Ficosa North America Corp.*, 299 F.3d 1313, 1323 (Fed. Cir. 2002). VeriFone met its burden “by ‘showing’ - that is, pointing out to the district court - that there is an absence of evidence to support the nonmoving party’s case.” *Exigent* at 1308.

## **VI. CONCLUSION**

The district court properly granted summary judgment because its claim construction was correct, and its conclusion of noninfringement was also correct. The claim construction was correct for the reasons specifically stated in the district court’s Order, and because of the prosecution history

and prior litigation, all of which were before the district court. Under the undisputed facts, no jury could find in favor of Ottah on his claims. For all of the foregoing reasons, VeriFone respectfully requests this Court to affirm the district court's grant of summary judgment of noninfringement and to award to VeriFone its costs and expenses in this appeal and such other relief as the Court may deem just.

Dated this 24<sup>th</sup> day of January 2013.

Respectfully submitted,

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Docket No. 2013-1106

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**United States Court of Appeals**  
*for the*  
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CHIKEZIE OTTAH,

*Plaintiff-Appellant,*

-v.-

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Appeal from the United States District Court  
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USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>10/10/2012</u>
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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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CHIKEZIE OTTAH,

Plaintiff,

-against-

VERIFONE SYSTEMS, INC.,

Defendant.  
-----X

11 Civ. 6187 (RMB)

**OPINION & ORDER**

Having reviewed the record herein, including (i) the amended pro se complaint of Chikezie Ottah (“Plaintiff” or “Ottah”), filed on February 7, 2012, against VeriFone Systems, Inc. (“Defendant” or “VeriFone”), alleging that VeriFone’s fixed mounts for electronic displays in New York City taxicabs infringe his rights in United States Patent No. 7,152,840 (the “’840 Patent”) and Australian Patent No. 2,003,231,638 (the “Australian Patent”) covering a removable “book holder” (Am. Compl., dated Feb. 6, 2012); (ii) the ’840 Patent, dated December 26, 2006, containing a single claim for a “book holder for removable attachment” (Decl. of Cosmin Maier, dated June 4, 2012 (“Maier Decl.”), Ex. 1); (iii) VeriFone’s motion for summary judgment, filed April 20, 2012, arguing, among other things, that (a) VeriFone’s mounts do not “literally infringe” the ’840 Patent because they do not include, among other things, “a telescoping arm, a clasp at one end of the arm with resilient clip arms for removably attaching the book holder, and a book support platform pivotally attached to the arm and having clamps on a front surface to hold a book”; (b) VeriFone’s mounts do not infringe under the “doctrine of equivalents” because Ottah previously argued to the United States Patent and Trademark Office (“USPTO”) that his book holder “can be attached quickly, removably, and without tools,” whereas VeriFone’s mounts are riveted in place for “permanent attachment”; and (c) with respect to the Australian

Patent, Ottah “does not allege any products or sales, or other acts in Australia relating to infringement” (Mem. in Supp. of Def.’s Mot. for Summ. J. of Non-Infringement, dated Apr. 20, 2012 (“Def. Mem.”), at 1, 14–17); (iv) Plaintiff’s opposition, filed May 21, 2012, arguing, among other things, that (a) it is “obvious[] without a doubt” that the VeriFone mounts infringe the ’840 Patent; (b) the ’840 Patent “anticipated the technological development” of fixed installation in the partition of a motor vehicle; and (c) the Australian Patent “is to establish[] authority” of the ’840 Patent (Mem. in Opp’n of Def. Mot. for Summ. J. of Non-Infringement, dated May 21, 2012 (“Pl. Opp’n”), at 5, 10, 12); (v) VeriFone’s reply, filed June 4, 2012 (Reply in Supp. of Def.’s Mot. for Summ. J. of Non-Infringement, dated June 4, 2012 (“Def. Reply”)); (vi) the Decision & Order, dated February 17, 2012, of United States District Judge Colleen McMahon finding in a separate action that the ’840 Patent neither literally infringed nor infringed under the doctrine of equivalents a “vehicular computer docking station” manufactured by First Mobile Technologies, see Ottah v. First Mobile Techs., No. 10 Civ. 7296, 2012 WL 527200 (S.D.N.Y. Feb. 17, 2012); (vii) the transcript of the conference before the Court on March 19, 2012 in which the parties waived oral argument (Hr’g Tr., dated Mar. 19, 2012, at 6:4–16); and (viii) applicable legal authorities, **the Court hereby grants VeriFone’s motion for summary judgment as follows:**

#### **No Literal Infringement**

Defendant argues that the VeriFone mounts “lack many elements of the sole claim of the ’840 [P]atent.” (Def. Mem. at 1.) Plaintiff argues that the VeriFone mounts “have the same parts and function” as the ’840 Patent. (Pl. Opp’n at 13.)

“An infringement analysis entails two steps. The first step is determining the meaning and scope of the patent claims asserted to be infringed. The second step is comparing the



properly construed claims to the device accused of infringing.” Markman v. Westview Instruments, Inc., 52 F.3d 967, 976 (Fed. Cir. 1995) (internal citations omitted). Where “the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, [] claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words.” Phillips v. AWH Corp., 415 F.3d 1303, 1314 (Fed. Cir. 2005). “[T]o find infringement, the accused device must contain each limitation of the claim, either literally or by an equivalent.” TIP Sys., LLC v. Phillips & Brooks/Gladwin, Inc., 529 F.3d 1364, 1379 (Fed. Cir. 2008) (internal quotation marks omitted). “If, however, even one claim limitation is missing or not met, there is no literal infringement.” MicroStrategy Inc. v. Bus. Objects, S.A., 429 F.3d 1344, 1352 (Fed. Cir. 2005).

First, the Court finds that the ’840 Patent’s sole claim consists of commonly understood words, such as “a book holder,” “for removable attachment,” “a clasp,” and “an arm.” See Phillips, 415 F.3d at 1314. The claim reads as follows:

1. A book holder for removable attachment, the book holder comprising:

a book support platform, the book support platform comprising a front surface, a rear surface and a plurality of clamps, the front surface adapted for supporting a book, the plurality of clamps disposed on the front surface to engage and retain the book to the book support platform, the rear surface separated from the front surface;

a clasp comprising a clip head, a clip body and a pair of resilient clip arms, the clip arms adjustably mounted on the clip head, the clip head attached to the clip body; and

an arm comprising a first end and a second end and a telescoping arrangement, the clasp on the first end, the second end pivotally attached to the book support platform, the telescoping arrangement interconnecting the first end to[] the second end, the clasp spaced from the book support platform wherein the book holder is removably attached and adjusted to a reading position by the

telescoping arrangement axially adjusting the spaced relation between the book support platform and the clasp and the pivotal connection on the book support platform pivotally adjusting the front surface with respect to the arm.

(Maier Decl. Ex. 1.)

Second, the Court finds the VeriFone mounts do not contain (at least) several of the limitations in the '840 Patent claim, including “[a] book holder for removable attachment”; “[a] plurality of clamps disposed on the front surface to engage and retain the book”; “[a] clasp spaced from the book support platform wherein the book holder is removably attached”; “[a] telescoping arrangement axially adjusting the spaced relation between the book support platform and the clasp”; and “[a] pivotal connection on the book support platform pivotally adjusting the front surface with respect to the arm.” (Maier Decl. Ex. 1); see MicroStrategy, 429 F.3d at 1352.

VeriFone’s mounts are anything but removable. They are “riveted in place to the taxi’s partition or seat” to discourage tampering and stealing of electronic displays (Def. Mem. at 15), and are unlike Plaintiff’s book holder which is “easily and removably attached” (Maier Decl. Ex. 1). See Ottah, 2012 WL 527200, at \*7 (“The ability to attach and remove quickly, which, as discussed above, is a primary feature of the '840 Patent, is not ‘substantially the same’ as drilling into floorboards.”).

Accordingly, the VeriFone mounts do not literally infringe the '840 Patent. See MicroStrategy, 429 F.3d at 1352.

#### **No Infringement under the Doctrine of Equivalents**

Defendant argues that Ottah is precluded from relying upon the doctrine of equivalents because, in prosecuting his patent before the USPTO, Ottah previously argued that removal is critical, *i.e.*, “the use of adjustable, resilient clip arms . . . for clasping the book holder to the movable vehicle providing quick removal and attachment without tools . . . is not obvious in

light of the prior art.” (Def. Mem. at 16–17.) Plaintiff argues that the ’840 Patent “anticipated the technological development” of (fixed) installation in a “vehicle back seat or partition.” (Pl. Opp’n at 10.)

“[T]he doctrine of prosecution history estoppel limits the doctrine of equivalents when an applicant makes a narrowing amendment for purposes of patentability, or clearly and unmistakably surrenders subject matter by arguments made to an examiner.” Am. Calcar, Inc. v. Am. Honda Motor Co., Inc., 651 F.3d 1318, 1340 (Fed. Cir. 2011) (internal quotation marks omitted). “The touchstone of prosecution history estoppel is that a patentee is unable to reclaim through the doctrine of equivalents what was surrendered or disclaimed in order to obtain the patent.” Loral Fairchild Corp. v. Sony Corp., 181 F.3d 1313, 1322 (Fed. Cir. 1999).

Prosecution history estoppel bars Ottah’s claim of infringement under the doctrine of equivalents. See Duramed Pharm., Inc. v. Paddock Labs., Inc., 644 F.3d 1376, 1380 (Fed. Cir. 2011). On January 21, 2005, the USPTO rejected Ottah’s initial patent application because, among other reasons, his claim was not different from “prior art.” (Maier Decl. Ex. 2.) By Preliminary Amendment, filed July 25, 2005, Ottah narrowed the scope of his claim and argued that “the use of adjustable, resilient clip arms on the clasp for clasping the book holder to the movable vehicle providing quick removal and attachment without tools . . . is not obvious in light of the prior art.” (Maier Decl. Ex. 2.) That is, Ottah focused specifically on removably, not on fixed (i.e., riveted) installation. Judge McMahon’s reasoning in Ottah’s suit against First Mobile Technologies is compelling. See Ottah, 2012 WL 527200, at \*8. In finding that Ottah’s prosecution history estopped his infringement claim under the doctrine of equivalents, Judge McMahon found as follows:

Ottah may not rely and focus on the easy removability of his invention without tools in order to acquire the ’840 Patent and then

expand the scope of that patent later by equating that same feature to other more difficult and tool-requiring methods of attachment. In other words, only a product which can be attached quickly, removably, and without tools, in a manner akin to that of the '840 Patent, can infringe that patent.

Id. Here, because Ottah previously argued that the defining characteristic of his book holder is its “quick removal and attachment without tools,” he cannot now claim that the permanent rivet attachments of the VeriFone mounts are “equivalent” to the limitations described in the '840 Patent. See id.

Accordingly, the VeriFone mounts do not infringe the '840 Patent, and summary judgment is granted. See Duramed, 644 F.3d at 1380.

#### **Australian Patent**

Defendant argues that Ottah “does not allege any products or sales, or other acts in Australia relating to infringement” of the Australian Patent. (Def. Mem. at 14.) Plaintiff argues that the Australian Patent “offer[s] the defendant a second opinion on . . . [the] authenticity” of the '840 Patent. (Pl. Opp'n at 12.)

Assuming, arguendo, that Plaintiff is seeking enforcement of the Australian Patent (which is unclear from the record), the Court would decline to exercise supplement jurisdiction over Ottah's foreign law patent claim under 28 U.S.C. § 1367(c) because, as discussed supra pp. 2–6, the Court has dismissed all of Ottah's U.S. patent claims over which it has original jurisdiction. See Voda v. Cordis Corp., 476 F.3d 887, 898 (Fed. Cir. 2007).

**Conclusion & Order**

For the foregoing reasons, VeriFone's motion for summary judgment [#25] is granted.

The Clerk of the Court is respectfully requested to close this case.

Dated: New York, New York  
October 10, 2012

Handwritten signature of Richard M. Berman in black ink.

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**RICHARD M. BERMAN, U.S.D.J.**

Filed: 01/24/2013

USDC SDNY  
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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/11/12

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
CHIKEZIE OTTAH,

Plaintiff,

11 CIVIL 6187 (RMB)

-against-

**JUDGMENT**

VERIFONE SYSTEMS, INC.,

Defendant.  
-----X

Verifone Systems, Inc. ("Verifone") having moved for summary judgment, and the matter having come before the Honorable Richard M. Berman, United States District Judge, and the Court, on October 10, 2012, having rendered its Opinion and Order granting Verifone's motion for summary judgment, it is,

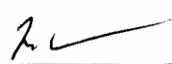
**ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated October 10, 2012, Verifone's motion for summary judgment is granted; accordingly, the case is closed.

**Dated:** New York, New York  
October 11, 2012

**RUBY J. KRAJICK**

\_\_\_\_\_  
Clerk of Court

BY:

  
\_\_\_\_\_  
Deputy Clerk

THIS DOCUMENT WAS ENTERED  
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US007152840B2

(12) **United States Patent**  
**Ottah et al.**

(10) **Patent No.:** **US 7,152,840 B2**  
(45) **Date of Patent:** **Dec. 26, 2006**

(54) **BOOK HOLDER**

(76) Inventors: **Chikezie Ottah**, 1035 Clarkson Ave.,  
Apt 5a, Brooklyn, NY (US) 11212;  
**Chineye Ottah**, 4<sup>th</sup> Ave #6, TransEklu,  
GRA, Enugu State (NG); **Keneth**  
**Ottah**, 4<sup>th</sup> Ave #6, TransEklu, GRA,  
Enugu State (NG)

(\*) Notice: Subject to any disclaimer, the term of this  
patent is extended or adjusted under 35  
U.S.C. 154(b) by 0 days.

(21) Appl. No.: **10/366,779**

(22) Filed: **Apr. 24, 2003**

(65) **Prior Publication Data**

US 2004/0214154 A1 Oct. 28, 2004

(51) **Int. Cl.**  
**A47B 5/04** (2006.01)

(52) **U.S. Cl.** ..... **248/444.1**

(58) **Field of Classification Search** ..... 434/179,  
434/308, 309, 317, 322, 365, 428, 430, 432;  
248/441.1, 444, 445, 448, 449, 450, 451,  
248/454, 458

See application file for complete search history.

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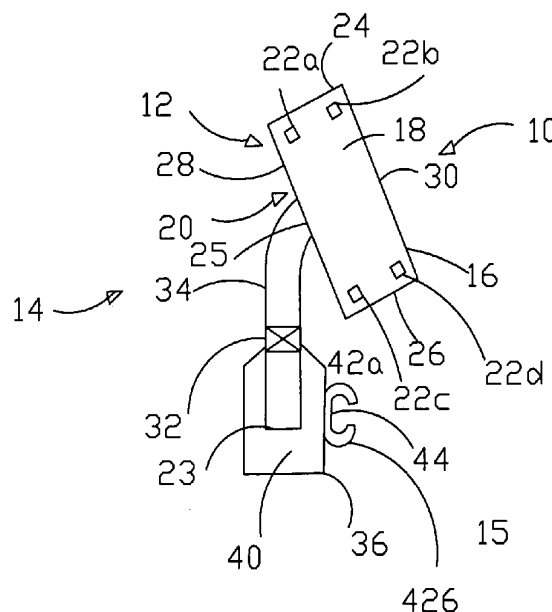
*Primary Examiner*—Kurt Fernstrom

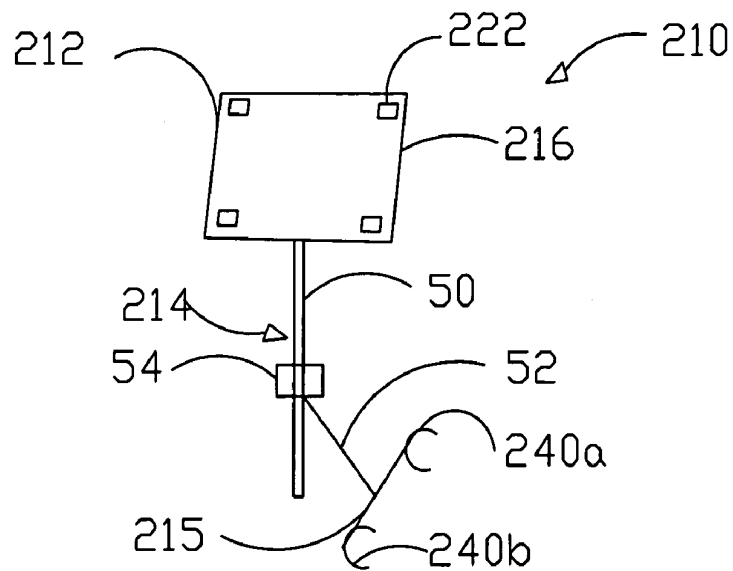
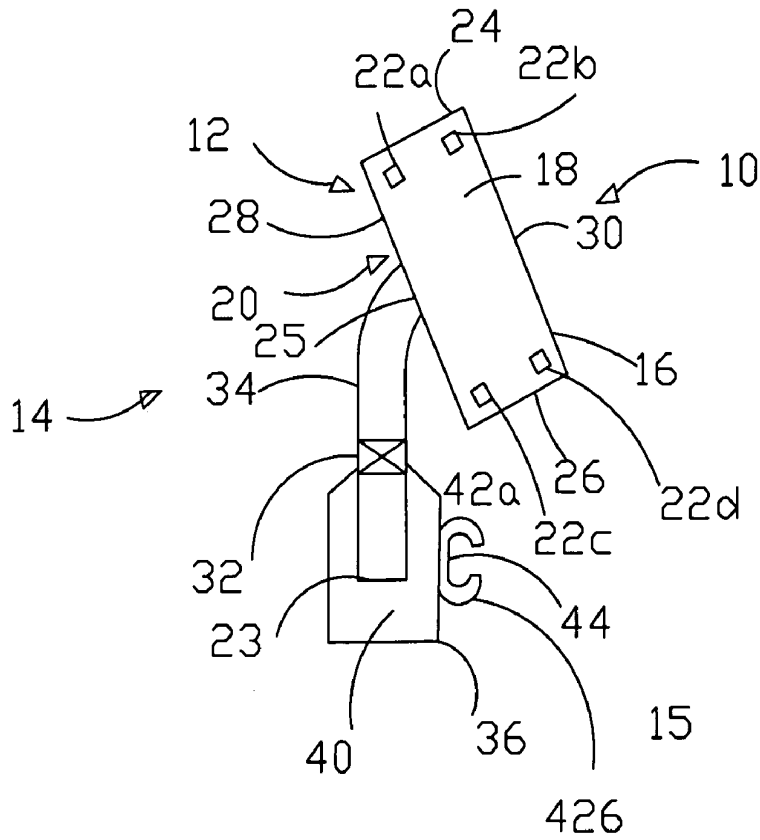
(74) *Attorney, Agent, or Firm*—James D. Palmatier; Applied  
Patent Services

(57) **ABSTRACT**

A book holder removably attachable to a vehicle or structure  
such as a stroller, walker, wheelchair or car seat for mobile  
applications. The book holder for holding a book or drawing  
surface in a usable position thereon for by the occupant of  
the vehicle. The book holder comprising an adjustable clasp  
on the vehicle, an arm extending to a book platform, the arm  
providing rotational pivotal and axial adjustment to hold the  
platform in spaced relation to the clasp. A plurality of spring  
biased clamps on the platform to secure the book to the book  
holder.

**1 Claim, 4 Drawing Sheets**







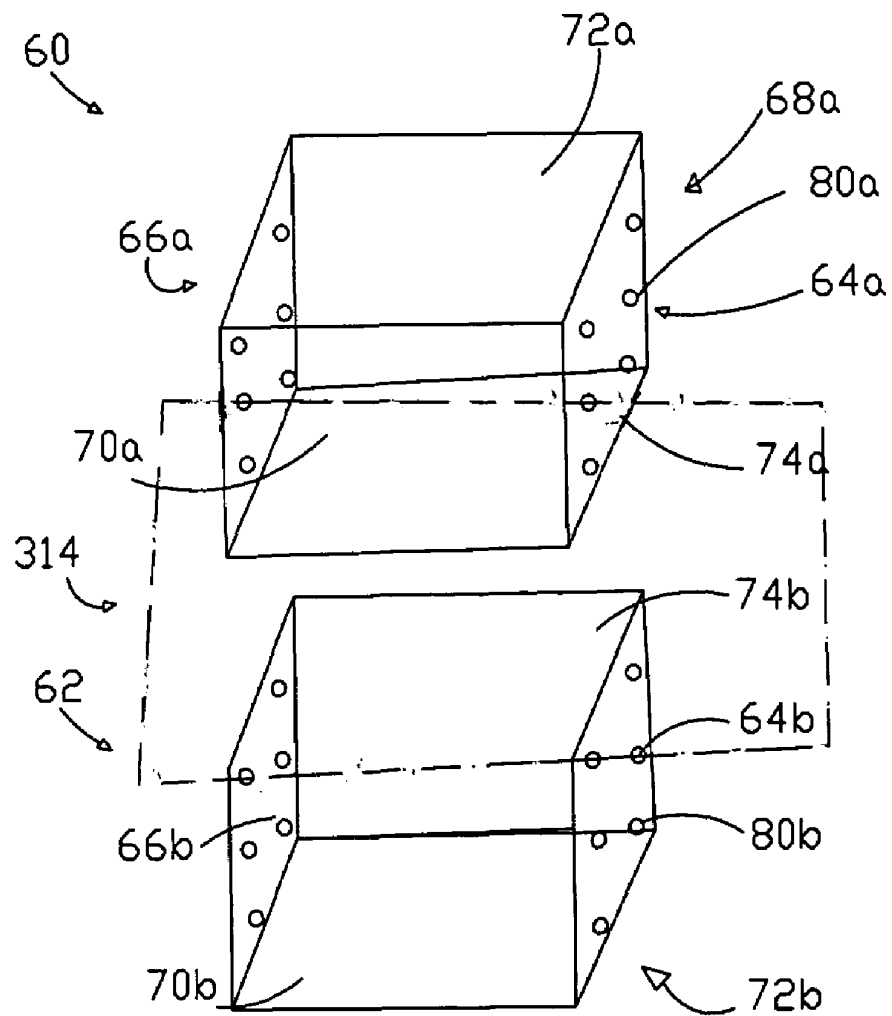
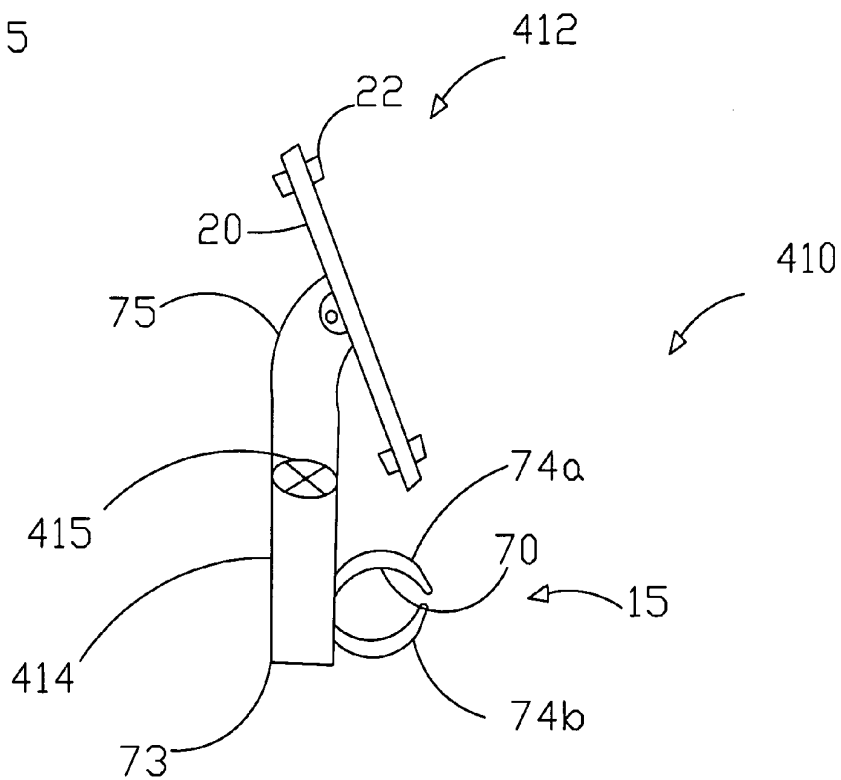
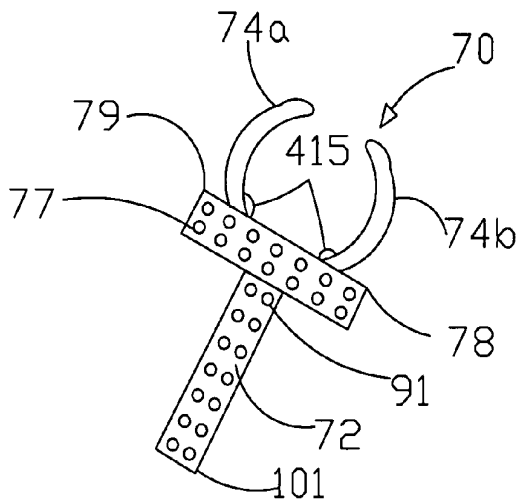


Fig. 3



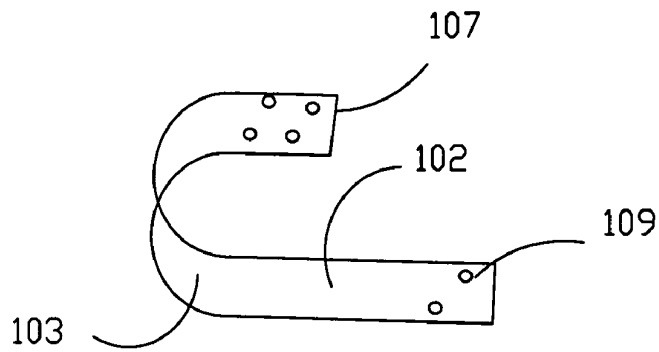


Fig. 7

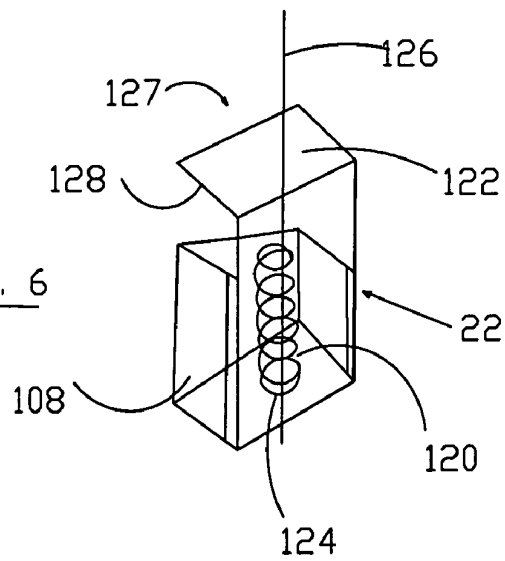


Fig. 6

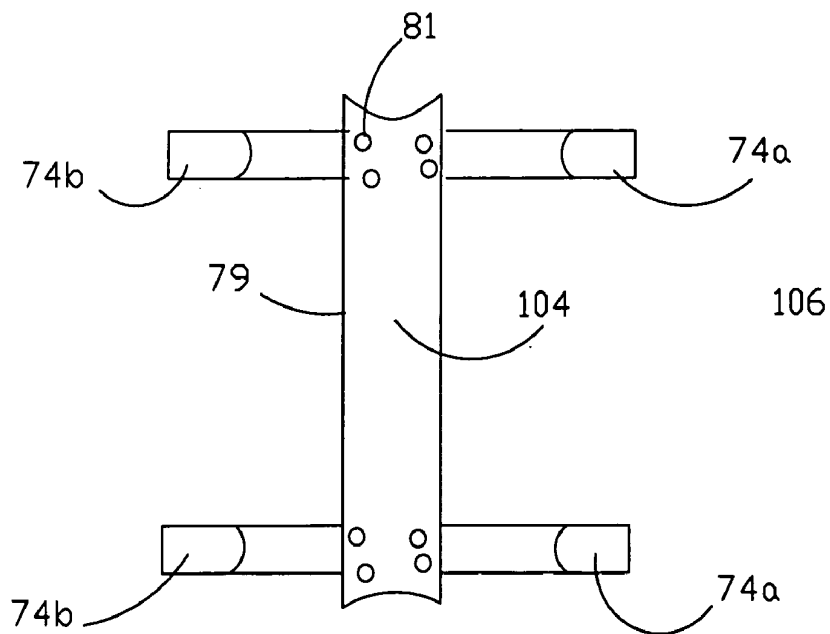


Fig. 8

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**BOOK HOLDER****BACKGROUND OF THE INVENTION****1. Field of the Invention**

The present invention relates generally to a removable book holder assembly for use by a person in a protective or mobile structure such as a car seat, wheelchair, walker, or stroller. The Book holder having an adjustable, releasable clipping means and a support arm configured for axial, rotational and pivotal adjustment of the book supporting surface of the book holder to hold a book in a readable position in front of the user.

**2. Description of the Related Art**

The prior art of book holders comprises a variety of devices for supporting a book on a platform in a position for viewing or reading. A conventional book holder includes a supporting structure for supporting the book support on a table. The platform is supported by a table or other such flat structure as seen in the Michela U.S. Pat. No. 5,755,423 for a FOLDING PORTABLE SUPPORT STAND, wherein a device is disclosed comprising hinged covers folding into a support structure for holding a book in the open position on a flat horizontal surface.

The prior art also discloses structures built around the person to hold a book in useful relation such as the ADJUSTABLE BOOK HOLDER in U.S. Pat. No. 6,202,973 to Navarin et al. In the '973 patent a structure is disclosed for holding a book in a readable position on a structure attachable to the reader's torso. The Weeks U.S. Pat. No. 3,497,882 for SUPPORT MECHANISM FOR SUPPORTING VARIOUS DEVICES TO BE EMPLOYED IN COOPERATION WITH A HOSPITAL BED likewise discloses a support structure disposed over the bed and a book holder slidably mounted on the support structure for holding the book in reading position while the reader is lying in bed.

The Wiersma U.S. Pat. No. 4,201,013 for a BOOK HOLDING DEVICE discloses a detachable device for use on a bed to suspend a book holder from over the reader's head. The Wiersma device is clamped to a headboard of a bed using C-clamps.

The book holders disclosed in the prior art suffer from a number of disadvantages. In particular, such book holders include do not provide an adequate solution for young children or mobility limited adults. These people spend a significant amount of their time outdoors (e.g., parks, beaches, playground, theme parks, etc) and conventional book holders are primarily designed for indoor use. The book holders in the prior art lack the ease of application to a mobile vehicle such as a wheelchair or stroller to allow the reader to have mobility to explore their environment in a stationary sitting or reclining position while reading a book supported on the mobile vehicle. As a result, the learning benefits are significantly reduced.

The prior art does not accommodate easy and quick attaching the book support onto a structure for mobile use. Thus there is a need for an improved Book Holder that is quickly and easily clipped to a mobile vehicle such as a wheelchair or stroller for holding the book in a reading position in spaced relation to the clip.

**SUMMARY OF THE INVENTION**

It is an object of the present invention to provide a book holder that can be easily and removably attached to and removed from a bar or portion of the mobile vehicle without tools.

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It is an object of the present invention to provide an adjustable clasp for attaching the book holder to the mobile vehicle to easily and quickly attach or detach the book holder.

It is further object of the present invention to provide an arm between the clasp and the book support platform to hold the book in spaced relation from the clip.

It is another object of the present invention to provide a pivotal attachment between the clasp and the support platform to hold the book on the support platform at a selected angle with respect to the reader for ease of viewing.

It is another object of the present invention to provide a telescoping arm between the clasp and the book support platform to axially adjust the position of the support platform with respect to the clasp to position the platform in a position for ease of viewing by the reader.

It is another object of the present invention to provide a book holder having an elongate arm with a rotational adjustment to rotate the position of the support platform with respect to the clasp to a position for ease of viewing by the reader.

It is another object of the present invention to provide a clasp comprising a clip having an adjustable, resilient arm for removably attaching to a mounting structure on the mobile vehicle.

It is another object of the present invention to provide a locking means on the book holder to retain the rotational, pivotal and axial position of the support platform with respect to the clasp.

It is another object of the present invention to provide a support platform adaptable for use as a writing board.

It is another object of the present invention to provide a connector means for removably securing a book to the book holder in a reading position.

**BRIEF DESCRIPTION OF THE DRAWINGS**

FIG. 1 is a perspective view of a book holder showing a first embodiment of the present invention;

FIG. 2 is a schematic view of a book holder according to a second embodiment of the present invention;

FIG. 3 is an exploded view of a book holder illustrating the square telescoping arm;

FIG. 4 is a side perspective view of the book holder of FIG. 1 illustrating an alternative clip arrangement;

FIG. 5 is a perspective view of an adjustable clip;

FIG. 6 is a perspective view of a book clamp.

FIG. 7 is a perspective view of a clip arm.

FIG. 8 is a elevation view of a plurality of clip arms from FIG. 7 on the clasp for releasable attachment of the book holder to a mobile vehicle.

**DETAILED DESCRIPTION OF THE INVENTION**

Referring to FIG. 1 there is illustrated a book holder assembly 10 according to the first embodiment of present invention. The book holder 10 comprises a book platform 12 and an adjustable arm 14 and a clasp 15. The book platform 12 includes a generally planar panel 16 having a front 18 and a rear surface 20. The front surface 18 is configured to hold a book or suitable for use as a writing/drawing board (eg a white-board, a blackboard, an electronic board). The rear surface 20 of the book platform 12 is attached to the adjustable support arm 14 at angle suitable for reading. The book platform 12 can be integrally formed with the support arm 14 such that the support arm 14 forms a portion of the

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book support protrudes from the rear surface 20 of the panel 16. Preferably, though the supporting arm 14 and the book platform 12 are provided as separate items to be assembled by the user.

Mounted to the front surface 18 of panel 16 are two pairs of spring biased book clamps 22 for securing a book (not shown) to the book holder 10. The first pair of spring biased book clamps 22a, 22b is located near the top edge 24. The second pair of spring biased book clamps 22c, 22d is located near the bottom edge 26.

Continuing to refer to FIG. 1 the panel 16 may be made of plastic and the book clamps 22 made of steel covered by plastic. However, other materials such as wood, metal, etc., and combination thereof may be used in the manufacturing of the book holder assembly 10.

The arm 14 comprises a first end 23 and second end 25. The clasp 15 is on the first end 23. The second end 25 is a spaced from the first end 23. The second end 25 is adjustably attached to the book platform 12. The arm 14 includes a telescoping arrangement 32 in which an upper support portion 34 of the support arm 14 slides within a lower support portion 36 and is held at a selected position by a locking member 55 (FIG. 2). The lower support portion 36 of the support arm 14 is attached to the clasp 15. The clasp 15 comprises one or more clips 40 for removeably attaching the book holder 10 to the mobile vehicle (not shown).

The clips 40 are adjustable in shape and size to fit the shape and size of the supporting frame member on the mobile vehicle (not shown). The clips 40 comprise a pair of resilient C-shaped clip arms 42 adjustably attached to the clip 40. The first clip arm 42a is spaced from the second clip arm 42b in order to tightly retain the supporting frame member of the mobile vehicle (not shown) therebetween. To secure the book holder 10, the user forces the clip arms 42a and 42b apart to allow the frame member to slip between the clip arms 42a, 42b. The clip arms 42a, 42b then snap resiliently together to hold the book holder 10 to the frame member (not shown) of the mobile vehicle (not shown).

Referring to FIG. 2, the book holder 210 comprises a book support platform 212, a generally planar panel 216, a support arm 214 and a dual clasp 215. The support arm 214 comprises a support member 50 extending from the middle section of the panel 216, an elongate arm 52 and an adjustable angle mount 54. The angle mount 54 connects the support member 50 to the elongate arm 52 to hold the panel 216 in spaced relation to the clasp 215. The angle mount 54 comprises locking member 55 to hold the panel 216 and clasp 215 in the user selected position. The angle mount 54 allows the panel 216 to be adjusted both axially and rotationally with respect to the clasp 215. The book support 212 may be pivotally mounted (FIG. 4) to the support member 50 to allow the panel 216 to be pivoted with respect to the support member 50.

Continuing to refer to FIG. 2, the dual clasp 215 comprises a clip bar 238 and a pair of clips 240 attached to the clip bar 238. The clips 240 are spaced from each other to provide a secure attachment to the mobile vehicle (not shown). As a result, the book holder 210 of FIG. 2 is adjustable for height and rotation and pivotal angle with respect to the clasp 215.

Referring now to FIG. 3 an alternative support arm 314 comprises concentrically mounted, square tube members 60, 62. The open box-shaped male member 60 is adapted to attach to a book support platform (12, FIG. 1) on one end and slidably insert into member 62 with the other end. The male member 60 is adapted for separable, concentric inter-connection with the female member 62 to form a telescoping

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arrangement for axial adjustment of the spaced relational distance between the book support 312 and the female member 62. The male member 60 comprises a front portion 64a, a back portion 66a, a pair of side portions 68a and 70a, a lower portion 72a, and a top 74a. The side portions 68a and 70a of the male member 60 have holes 80a formed in a pattern therein. The top 74a is adapted to attach to the book support (12, FIG. 1). The female member 62 comprises a front portion 66b, a back portion 68b, a pair of side portions 70b and 72b, and an open top 74b. The side portions 64b and 66b of the male member 62 have holes 80b formed therein for concentric alignment with the holes 80a in the male member 60. The lower portion 72b is adapted to attach to the clasp 15. The male member 60 fits slidably into the female member 62 such that at least one hole 80a in the side wall 64a of male member 60 is concentrically aligned with a hole 80b in the adjacent side wall 64b of the female member 62 at a predetermined position to axially space the clasp 15 from the book support (12, FIG. 1). The user then fixes the male member 60 to the female member 62 by connector means (not shown).

FIG. 4 illustrates a book holder 410 comprising a book support 412 and a support arm 414. The support arm 414 comprises a clasp 15, a lower section 73 and an upper section 75. The clasp 15 comprises an adjustable clip 70 mounted on the lower section 73. The adjustable clip 70 is rotatable with respect to the arm 414 to removably attach the book holder 410 to a vertical or horizontal object (eg, a pole) (not shown) on the mobile vehicle. The arm connector 415 rotateably and slidably attaches the lower section 73 of the supporting arm 414 to the upper section 75. The upper section 75 has pivotal connector 420 (FIG. 4) on the book support 412. The clip 70 has adjustable clip arms 74a, 74b to allow different sizes of objects to be attached to the book holder 410. The position of the clip arms 74a, 74b along the clip body 78 can be selectively fixed by a screw 415.

Referring to FIG. 5, the clasp 15 includes a clip body 101 and a pair of clips arms 74a, 74b extending from the clip body 101. The clip 70 comprises a clip head 79 having a plurality of holes 77 fastener. The clip arms 74a, 74b are mounted on the clip head 79 in spaced relation to securely and removably attach the book holder 410 (FIG. 4) to the mobile vehicle (not shown). The body 101 of the clip 70 may have a plurality of holes 91 formed therein in spaced relation to each other for adjustable connection of the clip 70 to the arm 414 (FIG. 4). Each clip arm is attached to the clip body in one of several selectable positions along said clip body. Preferably, the clip 70 includes a clip body 101 on the arm 414, a clip head 79 on the clip body 101 and a plurality of clip arms 74a, 74b removably attached to the clip head 79. A screw 415 or other fastener is removably attached to the clip head 79 for selectively fixing the position of said clip arm along said clip body. The clip means may alternatively be a spring clip or include at least one resilient clip arm.

Referring to FIG. 6 the head 79 is shown with two sets of clip arms 74a, 74b. Each clip arm 74a and 74b is attached by fastener 81 which may be removable such as a screw. The arms 74 are thereby adjustably spaced from each other to adapt to resiliently clasp onto a mounting portion of the mobile vehicle (not shown).

referring to FIG. 7 a clip arm 74 is shown comprising a flex section 103, a base 102 and a tip 107. The base 102 has one or more holes 109 formed therein for aligning with a hole on the clip head 79 to accommodate attaching the clip arm 74a to the clip head 79 by screw, rivet or other mechanical fastener 81. The clip arms 74a, 74b are attached to the clip head 79 in a C relation (FIG. 6) to form adjustable

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clasp **15**. The flex section **103** allows the tip **107** to deflect from its rest position to accommodate the portion of the vehicle to be attached to be disposed between the clip arms **74a**, **74b**. The resilient material of the lip arms **74a**, **74b** urges the tip **107** back to the rest position causing the clip arm **74a**, **74b** to bear against the vehicle to removably attach the book holder **10** to the vehicle (not shown). Tip **107** may also have holes **109** formed therein for alternate configurations on head **79** (FIG. 6) or alternate attachment methods.

Referring to FIG. 8, a book clamp **22** comprising a body **108**, a spring **120** and a slidable grip **122**. The slidable grip **122** is slidably mounted to the body **108**. The spring **120** has a first end **124** on the body **108** and a second end **126** on the grip **122** to urge the grip in the clamped position **127**. The book clamp **22** is mounted to the panel **16** having the grip **122** extending from the front surface **18** for engaging a book or other device to be retained on the book holder **10**. The spring **129** and slidable attachment between the grip **122** and the clamp body **108** allow the grip to be moved into position to engage the book with the finger portion **128** of the grip **122**. The spring **120** bears against the grip **122** to hold the book against the front surface **18** thereby securing the book (not shown) to the book holder **10**.

In use, the book holder **10** is attached to the vehicle (not shown) by use of the clasp **15**. The clasp **15** is rotationally adjusted on the support structure on the vehicle to begin the book holder **10** adjustment to a usable position. The telescoping mechanism in the arm **14** is used to axially adjust the spacing between the clasp **15** and the support platform **12**. The rotational coupling between the first end of the arm **14** and the second end of the arm is used to rotate the support platform around the axis of the arm **14** to an operable position. Lastly, the pivotal connection **420** (FIG. 4) between the arm **14** and the support platform **12**.

The book platform **12** may also be used to support such items as audio/video equipment, PDAs, or mobile phones, cameras, computers, musical instruments, toys, puzzles and games. The panel **16** may be provided with a set of mounting positions for receiving and/or mounting the above items (NOT SHOWN).

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Although the invention has been described above in connection with particular embodiments and examples, it will be appreciated by those skilled in the art that the invention is not necessarily so limited, and that numerous other embodiments, examples, uses, modifications and departures from the embodiments, examples and uses are intended to be encompassed by the claims attached hereto. The entire disclosure of each patent and publication cited herein is incorporated by reference, as if each such patent or publication were individually incorporated by reference herein.

We claim:

1. A book holder for removable attachment, the book holder comprising:
  - a book support platform, the book support platform comprising a front surface, a rear surface and a plurality of clamps, the front surface adapted for supporting a book, the plurality of clamps disposed on the front surface to engage and retain the book to the book support platform, the rear surface separated from the front surface;
  - a clasp comprising a clip head, a clip body and a pair of resilient clip arms, the clip arms adjustably mounted on the clip head, the clip head attached to the clip body; and
  - an arm comprising a first end and a second end and a telescoping arrangement, the clasp on the first end, the second end pivotally attached to the book support platform, the telescoping arrangement interconnecting the first end to the second end, the clasp spaced from the book support platform wherein the book holder is removably attached and adjusted to a reading position by the telescoping arrangement axially adjusting the spaced relation between the book support platform and the clasp and the pivotal connection on the book support platform pivotally adjusting the front surface with respect to the arm.

\* \* \* \* \*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on January 24, 2013, the foregoing **BRIEF AND APPENDIX FOR DEFENDANT-APPELLEE** was filed with the clerk of this Court by using the CM/ECF system and was served via U.S. Mail on:

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